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TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1939.

No. 596

TRADESMENS NATIONAL BANK OF OKLAHOMA CITY, APPELLANT,

vs.

THE OKLAHOMA TAX COMMISSION

APPEAL FROM THE SUPREME COURT OF THE STATE OF OKLAHOMA

FILED DECEMBER 16, 1939.

SUPREME COURT OF THE UNITED STATES

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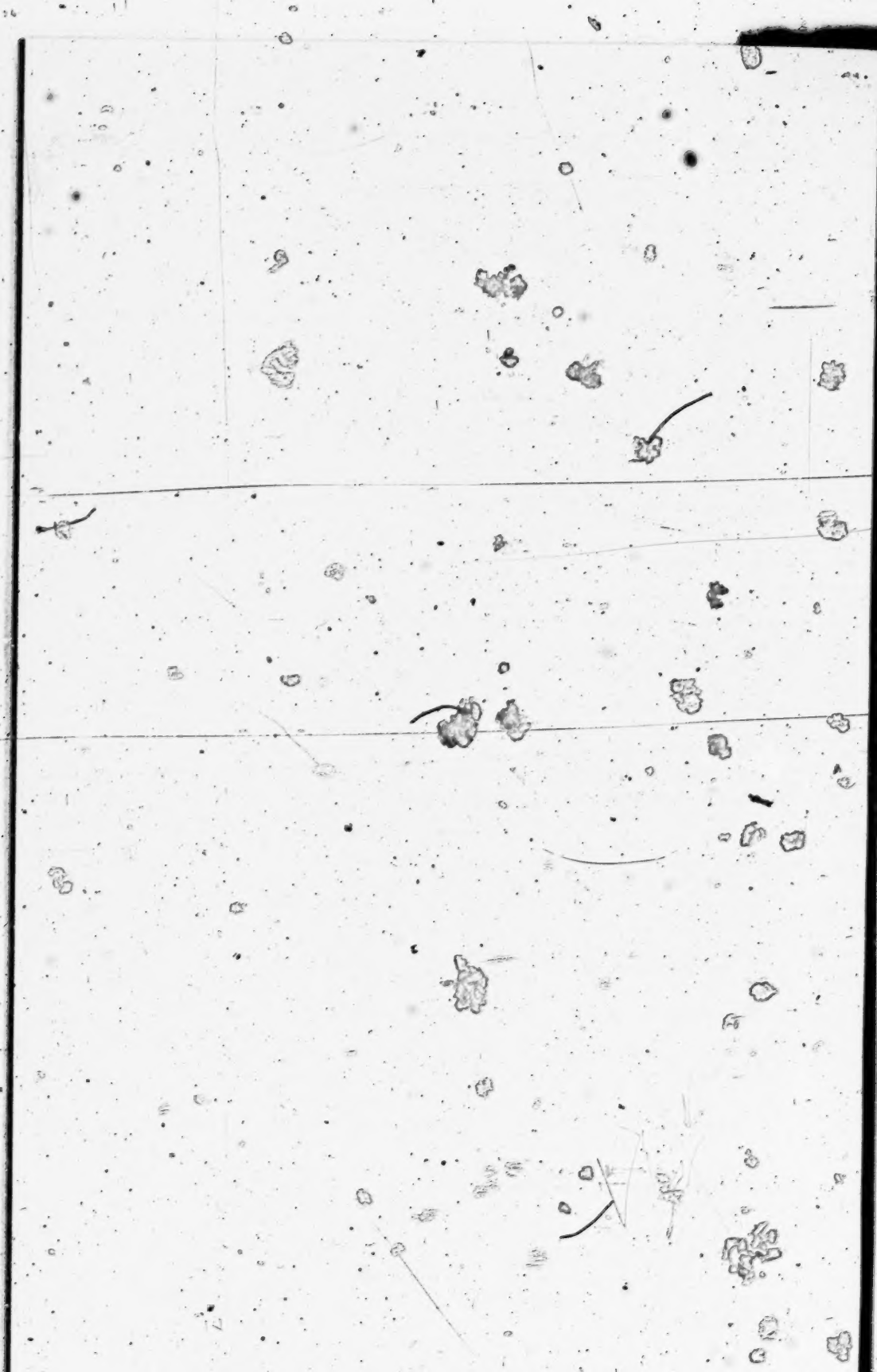
JUDD & DETWEILER (INC.), PRINTERS, WASHINGTON, D. C., FEBRUARY 6, 1940.
—6081



[fol. 1] [File endorsement omitted]

IN SUPREME COURT OF OKLAHOMA

No. 29155

TRADESMENS NATIONAL BANK, OF OKLAHOMA CITY, a Banking Corporation, Plaintiff-in-Error,

vs.

THE OKLAHOMA TAX COMMISSION, Defendant-in-Error

PETITION IN ERROR—Filed March 27, 1939

The said Tradesmens National Bank, of Oklahoma City, a banking corporation, plaintiff-in-error, complains of said defendant-in-error in that the said The Oklahoma Tax Commission, at the ——— term of the District Court of Oklahoma County, State of Oklahoma, recovered a judgment by the consideration of said Court denying relief and recovery of the plaintiff-in-error in a certain action then pending in said Court wherein the said Tradesmens National Bank, of Oklahoma City, a banking corporation, was plaintiff and The Oklahoma Tax Commission was defendant. The original case-made, duly signed, attested and filed, is hereto attached, marked "Exhibit A" and made a part of this Petition in Error; and the said Tradesmens National Bank, of Oklahoma City, a banking corporation, avers that there is error in the said record and proceedings in this, to-wit:

1. Said Court erred in overruling the motion of the plaintiff for a new trial.

2. Said Court erred in not rendering judgment for the plaintiff-in-error.

3. Said Court erred in not holding the so-called income tax on income of plaintiff-in-error derived from Federal securities, Federal Reserve Bank stock, Federal Land Bank bonds, Joint Stock Land Bank bonds and Territory of Hawaii bonds, unconstitutional and as a violation of both the United States and Oklahoma Constitutions.

[fol. 2] (4.) Said Court erred in holding that said purported Oklahoma Income Tax Law is not a violation of the Oklahoma Constitution as regards its title.

(5.) Said Court erred in not holding said purported Income Tax Law in violation of both the Constitution of the United States and the Constitution of Oklahoma in that it is discriminatory and not a uniform taxation.

(6.) Said Court erred in not holding said purported Income Tax Law in violation of the Constitution of the United States and the Constitution of Oklahoma in that it is a taxation of Federal instrumentalities.

(7.) Said Court erred in not holding that said Act is unconstitutional under both the Constitution of the United States and Oklahoma as being discriminatory under Section 5219, United States Statutes.

Wherefore, plaintiff-in-error prays that said judgment so rendered may be reversed, set aside and held for naught; and that a judgment may be rendered in favor of the plaintiff-in-error and against defendant-in-error for the relief and judgment sought, and the plaintiff-in-error be restored to all rights that it has lost by the rendition of such judgment; and for such other relief as to the Court may seem just.

Tradesmens National Bank, of Oklahoma City, a Banking Corporation, by Spiers & Bodevitz, Its Attorneys.

[fol. 3] [File endorsement omitted]

IN SUPREME COURT OF OKLAHOMA

No. 29,155

TRADESMENS NATIONAL BANK, OF OKLAHOMA CITY, a Banking Corporation, Plaintiff in Error,

v.

THE OKLAHOMA TAX COMMISSION, Defendant in Error

Syllabus

1. Article 6, Chapter 66, Session Laws 1935, is not violative of section 57, Article 5 of the Constitution insofar as said Act levies an annual tax on National banking associations "according to or measured by" the net income of such associations.

2. Section 16, Article 6, Chapter 66, p. 297, Session Laws 1935, 68 Okl. St. Ann. para. 887, providing for the taxation of national banking associations, which levies a tax "according to or measured by", the net income of such associations, constitutes a valid and binding exercise of the taxing power of the State notwithstanding further provisions of the Act, providing that such income shall include "the interest upon the obligations of the United States, or its possessions, or upon securities issued under the authority of an Act of Congress, the income of which is tax free.

3. The state is not obliged to apply the same system to the taxation of national banks that it uses in the taxation of other property, provided no injustice, inequality or unjust discrimination is inflicted upon them.

Appeal from the District Court of Oklahoma County

Hon. Lucius Babcock, Judge

Affirmed

Spiers & Bodovitz, of Oklahoma City, for Plaintiff in Error.

Rec. Dick Jones, A. L. Herr, C. D. Stinchecum, Rowe Cook, of Oklahoma City, for Defendant in Error.

[fol. 4] OPINION—Filed Oct. 17, 1939

OSBORN, J.:

This action was instituted in the District Court of Oklahoma County by the Tradesmen's National Bank, hereinafter referred to as plaintiff, against the Oklahoma Tax Commission, hereinafter referred to as defendant, wherein it was sought to recover certain taxes paid by plaintiff under protest. The cause was tried to the court, a judgment was entered in favor of defendant and plaintiff has appealed.

The tax involved herein was assessed against plaintiff under the provisions of sec. 16, art. 6, chap. 66, Session Laws 1935. The income against which the tax was levied consisted of dividends on stock owned by plaintiff in the Federal Reserve Bank and interest received by plaintiff on bonds or securities issued by the United States Government.

For reversal plaintiff submits the following propositions:

"1. House Bill No. 192, Article 6, Chapter 66, Session Laws of 1935, is unconstitutional as being violative of Article 5, Section 57, of the Oklahoma Constitution.

"2. The 1935 Oklahoma Income Tax Law is unconstitutional as being discriminatory under the Constitution of the State of Oklahoma.

"3. The 1935 Oklahoma Income Tax Law is unconstitutional as being violative of the Fourteenth Amendment to the United States Constitution.

"4. The 1935 Oklahoma Income Tax Law is unconstitutional as being a direct tax on the income from obligations ans securities of the United States.

"5. The 1935 Oklahoma Income Tax Law violates the letter and spirit of Section 5219 Revised Statutes of the United States."

Under plaintiff's first proposition it is argued that the Act levies an income tax against National Banking Associations which purpose and intent is not disclosed in its title. The applicable portion of the title is as follows:

[fol. 5] "• • • an annual tax on National Banking Associations, State Banks and Trust Companies, according to or measured by their net incomes authorized by Method Four (4) of Section 5219, U. S. Revised Statutes as Amended, relating to National Banking Associations, • • •"

The tax levied by the Act involved herein is not an income tax, but is a franchise tax measured by net income. The levy of such tax is specifically authorized by Section 5219, U. S. Revised Statutes, Title 12, Section 548 U. S. C. A. The language used in the title is amply sufficient to designate the levy of a tax of this character.

The other propositions relied upon for reversal were presented to this court in the case of First National Bank of El Reno v. Oklahoma Tax Commission, 90 P. (2d) 438, and were determined contrary to the contentions of plaintiff. It appears that all of the arguments presented by plaintiff were before the Court in that case. Therein it was held:

"Section 16, Article 6, Chapter 66, p. 297, Session Laws 1935, 68 Okl. St. Ann. para. 887, providing for the taxation

of national banking associations, which levies a tax 'according to or measured by', the net income of such associations, constitutes a valid and binding exercise of the taxing power of the State notwithstanding further provisions of the Act, providing that such income shall include 'the interest upon the obligations of the United States, or its possessions, or upon securities issued under the authority of an Act of Congress, the income of which is tax free.

"The state is not obliged to apply the same system to the taxation of national banks that it uses in the taxation of other property, provided no injustice, inequality or unjust discrimination is inflicted upon them."

It would serve no useful purpose to reiterate the discussion contained in that opinion.

The judgment is affirmed.

Welch, V. C. J., Riley Corn, Gibson, Hurst, Davison and Danner, JJ.: Concur.

Bayless, C. J.: Absent.

[fol. 6] [File endorsement omitted]

IN SUPREME COURT OF OKLAHOMA

[Title omitted]

PETITION FOR REHEARING—Filed October 27, 1939

Comes now the Tradesmens National Bank, Plaintiff in Error, and respectfully represents to the court that on the 17th day of October, 1939, a decree of judgment was rendered in this court in said cause affirming the judgment of the District Court of Oklahoma County.

That said decision overlooked two matters which, in our opinion, should be decisive of the case:

A. The court treats the tax levied under the 1935 Oklahoma Income Tax Law against national banks as a franchise tax measured by net income, and not an income tax. The opinion cites no authorities for this construction. That, of course, is an important question and the determination is rather summarily reached. There is no question but that said tax is unconstitutional and invalid by all methods of determination if it is in fact an income tax, and it is at least

arguable as to its constitutionality if in truth and in fact it is an excise or franchise tax.

We submit that it is not a franchise or excise tax for the following reasons:

(1.) No state may impose a franchise on a national bank granting or restricting the exercise of its banking privileges within the confines of the state.

(2.) The enactments in Oklahoma are all set forth in the regular and only income tax laws of the State of Oklahoma and do not purport to be set forth in any legislation regarding corporations.

[fol. 7] (3.) The Oklahoma Tax Commission, being the taxing agency for the State, in levying the deficiency expressly construed the Act by levying a tax in the form of a letter addressed to the plaintiff in error wherein they levied a deficiency against the bank for its "income tax".

"In Macallen Co. v. Massachusetts (1929) 279 U. S. 620, 73 L. Ed. 874, 65 A. L. R. 866, 49 S. Ct. 432 (reversing (1928) 264 Mass. 396, 163 N. E. 75, rehearing denied (1929) 280 U. S. 513, 74 L. ed. 585, 50 S. Ct. 14), a state statute imposing on domestic corporations "with respect to the carrying on or doing of business by it, an excise equal to" a certain per cent of the net income of such corporations derived from business carried on within the state, was held to be void as an unconstitutional burden upon United States bonds and other tax-exempt securities; since, notwithstanding the purport of the statute itself, the tax was in fact one upon the income, rather than upon the right to do business, where, under the statute as it formerly stood, the income from United States bonds and other tax exempt securities was expressly excepted from the tax, and the legislature subsequently amended the act so as to repeal the section exempting such securities in computing the amount of the tax, thus indicating an intention to subject such securities pro tanto to the burden of the tax. 71 A. L. R. 270.

(B.) There is another decisive feature that the court overlooked in its opinion.

The Stipulation of Facts set forth in the record expressly provided that the enactments of Congress under which these Federal instrumentalities were issued became a part of the record. Further, the record and Stipulation expressly listed

such Federal obligations and bonds of Federal instrumentality with the amount of income derived therefrom.

Believing that the court overlooked this feature, we quote from the face of Federal Farm Mortgage Corporation bonds, which is as follows:

We submit that the State of Oklahoma in its 1935 Income Tax Law is attempting by legislation to impair the obligations of this contract issued by the Federal Government and is seeking by indirection to violate the express conditions and terms of said obligation.

Wherefore plaintiff in error prays that a rehearing of said cause may be granted by your honorable court.

Spiers & Bodovitz.

[fol. 8] I, V. J. Bodovitz, hereby certify that I am attorney for Tradesmens National Bank of Oklahoma City, Plaintiff in Error in the above cause, and that a copy of this Petition for Rehearing has, on this 26th day of October, 1939, been mailed to Mr. Dick Jones, Chief Attorney for Defendant in Error, at his office in the State Capitol, Oklahoma City, Oklahoma.

V. J. Bodovitz.

[fol. 9] IN SUPREME COURT OF OKLAHOMA

29,155

TRADESMENS NATIONAL BANK OF OKLAHOMA

vs.

OKLAHOMA TAX COMMISSION

ORDER DENYING PETITION FOR REHEARING—Filed November 7, 1939

The clerk is hereby directed to enter the following orders:

* * * * * * *

Petition for Rehearing Denied

Wayne W. Bayless, Chief Justice.

[File endorsement omitted.]

[fol. 10] IN SUPREME COURT OF OKLAHOMA

[Title omitted]

MOTION FOR STAY OF MANDATE TO PERMIT TAKING AND ALLOWANCE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES—Filed November 10, 1939

Comes now the appellant and plaintiff in error and respectfully shows to the Court that it intends to take and have allowed, and to prosecute, an appeal to the Supreme Court of the United States and to have reviewed by that Court the action and decision of this Court in the above styled and numbered cause, evidenced by the written opinion of this Court filed in this case on the 11th day of October, 1939, and the order of this Court denying appellant's petition for re-hearing, which order was entered on the 7th day of November, 1939.

This appellant shows to the Court that on account of the many troublesome and vexing questions involved, and on account of the fact that appellant's assignment of errors to be urged in the Supreme Court of the United States and appellant's statement of the jurisdictional grounds for its [fol. 11] said appeal must be prepared and presented at the time the allowance of said appeal is sought, appellant will require at least twenty days from this date for such purposes.

Appellant further shows to the Court that under the rules of the Supreme Court of the United States, it is entitled to supersede and stay the action of this Court by the filing of a good and sufficient bond, as required by said rules, and that the amount of such bond, together with the amount of the proper security for costs must be fixed and determined by this Court, and that such bond must be filed, presented and approved by the Chief Justice of this Court at the time of the allowance of such appeal.

Appellant further shows to the Court that the money judgment prayed for in its petition is for income taxes paid by appellant to the Oklahoma Tax Commission, and that said fund is impounded by the Oklahoma Tax Commission and that indemnity is only necessary in an amount sufficient to secure costs of suit and interest.

Wherefore, premises considered, appellant prays for an order of this Court:

(1) Staying the mandate in this cause for a period of twenty days from this date, during which time appellant shall take and cause to be allowed in proper manner an appeal to the Supreme Court of the United States;

(2) Fixing and determining the costs and supersedeas bond which this appellant shall file, present and have ap-
[fol. 12] proved by the Chief Justice of this Court at the time said appeal is allowed, said bond to be conditioned as required by law and the rules of the Supreme Court of the United States.

Dated this 10th day of November, 1939.

E. A. Walker, V. J. Bodovitz, Attorneys for Appellant and Plaintiff in Error Tradesmens National Bank of Oklahoma City, a banking corporation.

Duly sworn to by Spence Miller. Jurat omitted in printing.

[File endorsement omitted.]

Service of the above and foregoing motion, and receipt of a copy thereof is hereby acknowledged this — day of November, 1939.

A. F. Herr, Attorney for Oklahoma Tax Commission.

[fol. 13] IN SUPREME COURT OF OKLAHOMA

[Title omitted]

ORDER STAYING MANDATE AND FIXING COSTS BOND—Filed November 10, 1939

Now, on this 10th day of November, 1939, the above named court having considered appellant's motion filed herein on the 10th day of November, 1939, and for good cause shown

It Is Hereby Ordered that appellant's application and motion for stay of mandate in this cause is sustained and said mandate herein is stayed, pending the application of appellant for an allowance of an appeal to the Supreme Court of the United States and pending the final determination of such appeal when taken, upon condition that appellant shall make due application to the Chief Justice of this court within twenty days from this date for the allowance
[fol. 14] of such appeal to the Supreme Court of the United

States and at such time shall present and have approved by the Chief Justice and filed with the Clerk of this court a good and sufficient costs bond, conditioned as required by the rules of the Supreme Court of the United States in such cases made and provided; said bond to be in the principal sum of Five Hundred ($500.00) Dollars, which bond shall within such time be presented and approved by said Chief Justice and filed with the Clerk of this Court.

Dated this 10th day of November, 1939.

Wayne W. Bayless, Chief Justice.

[File endorsement omitted.]

[fol. 15] [File endorsement omitted]

IN SUPREME COURT OF THE UNITED STATES

[Title omitted]

PETITION FOR APPEAL AND PRAYER FOR REVERSAL—Filed Dec. 4, 1939

To the Honorable Chief Justice of the Supreme Court of Oklahoma:

Your petitioner, Tradesmens National Bank of Oklahoma City, a banking corporation, appellant in the above entitled cause, and appellant and plaintiff in error in the cause in the Supreme Court of Oklahoma, hereinafter referred to, considering itself aggrieved by the final decision and judgment of the Supreme Court of Oklahoma entered on the 7th day of November, 1939 (which judgment became final on that day upon the denial of appellant's Petition for Rehearing) in the cause entitled:

"Tradesmens National Bank of Oklahoma City, a banking corporation, Appellant and Plaintiff in Error

vs.

Oklahoma Tax Commission, Appellee and Defendant in Error

Cause No. 29,155"

on the docket of said court, affirming the judgment of the District Court of Oklahoma County, hereby files its petition for an appeal from said decision and judgment.

In the above entitled cause in the Supreme Court of Oklahoma there is drawn in question the validity of the statute of Oklahoma on the ground of its being repugnant to the Fourteenth Amendment to the Constitution of the [fol. 16] United States in that it deprives this appellant of its property without due process of law and denies to it the equal protection of the laws; further, being repugnant to Article I, Section 9 of the Constitution of the United States in that it is an attempt on the part of the State of Oklahoma to enact a law impairing the obligation of a contract; and that said Act is in derogation of the constitutional power of Congress to borrow money on the credit of the United States, as well as in violation of the acts of Congress declaring such bonds and securities to be non-taxable; said statute being the Income Tax Law of Oklahoma enacted by the Legislature of Oklahoma, Session Laws 1935, Section 16, Article 6, Chapter 66.

The decision and final judgment of the Supreme Court of Oklahoma herein appealed from were in favor of the validity of said Income Tax Law enacted by the Oklahoma Legislature in 1935.

The Supreme Court of Oklahoma is the highest court of the State of Oklahoma in which a decision in this suit could be had.

The petitioner shows that this case is one in which, under the legislation in force (Sec. 237, Judicial Code as Amended, 28 U. S. C. A. 344) as amended by the Act of January 31, 1928, (Ch. 14, 45 Stat. 54) a review could be had in this court as a matter of right by appeal.

This appeal is accompanied by an assignment of errors setting forth the grounds upon which it is contended that the decision and judgment of the Supreme Court of Oklahoma should be reversed, and a statement particularly disclosing the basis upon which it is contended that the Supreme Court of the United States has jurisdiction to review said decision and judgment of the Supreme Court of Oklahoma.

Wherefore, your petitioner prays:

That an appeal may be allowed herein from the Supreme Court of Oklahoma to the Supreme Court of the United States in order that said decision and judgment of the Supreme Court of Oklahoma may be examined and reversed; that a transcript of the material parts of the record in this

cause, duly authenticated, may be ordered to be prepared and certified to the Supreme Court of the United States, [fol. 17] as provided by law; that an order may be made fixing the security to be required of petitioner; that the cost bond tendered herewith by petitioner may be approved; and that there be issued to appellee a citation directing said appellee to appear in the Supreme Court of the United States at Washington, D. C., within forty days from the date hereof and there to show cause, if any there be, why said decision and judgment should not be reversed and speedy justice be done to the appellant in that behalf.

E. A. Walker, Attorneys for Appellant. V. J. Bodovitz, of Counsel.

Service of the foregoing petition for appeal and receipt of copy thereof at Oklahoma City, Oklahoma, this 29 day of Nov., 1939, is hereby acknowledged.

C. D. Stinchecum, Attorney for Oklahoma Tax Commission.

[fol. 18] [File endorsement omitted]

IN SUPREME COURT OF THE UNITED STATES

[Title omitted]

ASSIGNMENT OF ERRORS—Filed Dec. 4, 1939

Appellant, Tradesmens National Bank of Oklahoma City, a banking corporation, doing business in the City of Oklahoma City, State of Oklahoma, for its assignment of errors herein, says that the Supreme Court of Oklahoma, in its decision and judgment in the cause entitled

Tradesmens National Bank of Oklahoma City, a banking corporation, appellant and plaintiff in error, vs. The Oklahoma Tax Commission, appellee and defendant in error, Cause No. 29,155,

erred in approving and affirming the judgment and order of the District Court of Oklahoma County in Case No. 93,837 then pending in the District Court of Oklahoma County, State of Oklahoma, wherein Tradesmens National Bank of Oklahoma City, a banking corporation, was plaintiff and The Oklahoma Tax Commission was defendant, and

which District Court rendered judgment against the plaintiff and in favor of the defendant, denying plaintiff recovery of income taxes paid under protest. Upon review of such judgment and order of the District Court, the Supreme Court of Oklahoma erred in each of the following particulars, and in each such particular appellant was deprived of its property without due process of law, and was also denied equal protection of law, contrary to and in violation of the Constitution of the United States.

I. The Supreme Court of Oklahoma erred in affirming the judgment of the District Court of Oklahoma County, State of Oklahoma, for the reason that the Oklahoma Income Tax [fol. 19] Law enacted in 1935, and Section 16, Article 6 thereof, is unconstitutional, and in violation of the Fourteenth Amendment to the United States Constitution.

II. That said court erred in affirming the judgment of the District Court of Oklahoma County for the reason that said 1935 Income Tax Law is violative of Article I, Section 9 of the Constitution of the United States as being an act of the State of Oklahoma impairing the obligation of a contract.

III. That said court erred in affirming the judgment of the District Court of Oklahoma County in upholding the validity of the 1935 Income Tax Law and Section 16, Article 6 thereof, for the reason that same is in violation of the constitutional power of Congress to borrow money on the credit of the United States, as well as a violation of the acts of Congress declaring such bonds and securities and the income therefrom to be non-taxable.

IV. That said court erred in affirming the judgment of the District Court of Oklahoma County and upholding the 1935 Income Tax Law of Oklahoma and Section 16, Article 6 thereof, for the reason that same is in violation of Section 5219, Revised Statutes of the United States.

For each of the errors specified above and because in each of said respects said decision and judgment of the Supreme Court of Oklahoma, in approving and affirming the judgment of the District Court of Oklahoma County, State of Oklahoma, deprives appellant of its property without due process of law, and denies to appellant the equal protection of the laws, appellant prays that said decision and judgment be reviewed by the Supreme Court of the United

States and there reversed and judgment rendered in favor of the appellant and for its costs.

E. A. Walker, Attorneys for Appellant. V. J. Bodovitz, of Counsel.

[fols. 20-32] Acknowledgment of Service

Service of the foregoing assignment of errors and receipt of a copy thereof at Oklahoma City, Oklahoma, is hereby acknowledged this 29th day of November, 1939.

C. D. Stinchecum, Attorney for Oklahoma Tax Commission.

[fol. 33] [File endorsement omitted]

IN SUPREME COURT OF THE UNITED STATES

[Title omitted]

ORDER ALLOWING APPEAL—Filed Dec. 4, 1939

The petition of Tradesmens National Bank of Oklahoma City, a banking corporation, for an appeal in the above cause (being cause No. 29,155, styled Tradesmens National Bank of Oklahoma City, a banking corporation, appellant and plaintiff in error, vs. The Oklahoma Tax Commission, appellee and defendant in error, upon the docket of the Supreme Court of the State of Oklahoma) to the Supreme Court of the United States from the Supreme Court of the State of Oklahoma, and the assignment of errors and the jurisdictional statement required by the rules of the Supreme Court of the United States being filed therewith, having been presented, and having been considered, together with the record of said cause,

It is Ordered that an appeal be, and the same is hereby allowed to the Supreme Court of the United States from the Supreme Court of the State of Oklahoma, as prayed in said petition, and that the Clerk of the Supreme Court of the State of Oklahoma shall prepare and certify a transcript of the record and proceedings in the above cause and transmit the same to the Supreme Court of the United States sc that same shall be delivered to said court last named within forty days from the date hereof.

And the said Tradesmens National Bank of Oklahoma City, a banking corporation, having presented to the Chief Justice of the Supreme Court of Oklahoma, in accordance with the prior order of this court, a good and sufficient cost

bond in the sum of Five Hundred ($500.00) Dollars as [fol. 34] security, with National Surety Corporation as surety, conditioned that appellant prosecute such appeal to effect, and if said appellant fail to make its plea good, it shall answer and pay all costs; and said bond having been taken and examined by me, is approved.

The appeal shall operate as a supersedeas, and the mandate of this court is hereby stayed and the effectiveness of the judgment and order appealed from is hereby stayed pending the final determination of said appeal.

Dated this 29th day of November, 1939.

(Signed) Wayne Bayless, Chief Justice of the Supreme Court of Oklahoma.

Attest: Andy Payne, Clerk. (Seal.)

Acknowledgment of Service

Service of the above and foregoing order allowing appeal and the receipt of a copy thereof is acknowledged by each of the undersigned this 29th day of Nov., 1939.

C. D. Stinchecum, Attorney for Oklahoma Tax Commission.

[fol. 35] Citation in usual form showing service on C. D. Stinchecum, filed Dec. 4, 1939; omitted in printing.

[fols. 36-40] Bond on appeal for $500.00 approved and filed Dec. 4, 1939; omitted in printing.

[fol. 41] In District Court of Oklahoma County

No. 93,837

The Tradesmens National Bank of Oklahoma City, a Banking Corporation, Plaintiff,

vs.

The Oklahoma Tax Commission, Defendant

Petition—Filed July 23, 1937

Comes now the plaintiff, a banking corporation, and for cause of action against the defendant, alleges and states:

1. That the plaintiff is a national banking corporation duly organized under and by virtue of the laws of the United

States and duly licensed and authorized to conduct its business in the State of Oklahoma as a banking corporation; that the defendant, Oklahoma Tax Commission, is the statutory body duly created by law and constituting the tax collecting agency of the State as to the taxes hereinafter mentioned.

2. That heretofore the 15th Legislature of the State of Oklahoma passed House Bill No. 192, commonly known as the Oklahoma Income Tax law of 1935", being Article 6, of Chapter 66, Session Laws of 1935, and that under such Act the plaintiff herein was taxed for the calendar year 1936; [fol. 42] that the said tax was illegal, erroneous, excessive and void to the extent and for the reasons hereinafter set forth; that the plaintiff paid said tax in the time and manner provided by law to the Oklahoma Tax Commission, and at such time and place gave notice to the said Oklahoma Tax Commission in writing of its intention to file suit for the recovery of the same, paying said tax under protest, and a copy of said notice and protest is attached hereto, marked plaintiff's Exhibit "A", and made a part hereof, such protest being filed and notice given on the — day of July, 1937.

3. Plaintiff further states that under the said legislative enactment an income tax was imposed upon said plaintiff of 6% of its net income and that said tax was imposed under and in accordance with said law, and in fixing and determining the amount of tax it is there provided that all corporation- shall be taxed upon their gross income, less certain allowable deductions and exemptions, and that as to every individual and every corporation in the State, other than banks, it is provided that the term "gross income" does not include the following: "Interest upon the obligations of the United States or its possessions, or upon securities issued under authority of an Act of Congress, the income from which is tax free", but as to the plaintiff bank, by section 8, (8), (c), and by section 18, (b), it is provided that the term "gross income" as to the banks shall include "interest upon [fol. 43] the obligations of the United States, or its possessions, or upon securities issued under the authority of an Act of Congress, the income from which is tax free." That the plaintiff bank, and all other banks doing business in this State, therefore have been compelled to pay, and have paid a tax upon the income from tax exempt securities of the United States Government, whereas every other person and

corporation in the State is exempted from the imposition of the same burden, obligation and tax which is, as aforesaid, specifically imposed upon banks, and such tax as is occasioned by reason of taxing the income on exempt federal securities is illegal, erroneous, excessive and void as hereinafter more specifically set forth; that the amount of such illegal and discriminatory tax occasioned thereby is $6,622.65.

(a) That the said tax is illegal, erroneous, excessive and void in that it discriminates against the plaintiff bank, and taxes it in a greater amount than any other corporation or individual, banks alone being subjected to the tax on the interest and/or income from tax exempt federal securities. Plaintiff further states that the said provisions of the said Act, towit: section 8, (8), (c) and section 18 (b), which read as follows:

"In the cases of National banking associations, state banks, trust companies and other financial corporations, doing business in or organized under the laws of this state, the term 'gross income' includes the items of income enumerated in Section 18."

[fol. 44] "The term 'Gross income' shall also include the interest upon the obligations of the United States, or its possessions, or upon securities issued under the authority of an Act of Congress, the income from which is tax free."

are unconstitutional and void and violate both the Constitution of the United States and the Constitution of the State of Oklahoma. That said discriminatory provisions violate Section 10 of Article I, and the 14th Amendment of the Constitution of the United States in that the said legislative enactment deprives the plaintiff bank of its property without due process of law, and of the equal protection of the laws, and the tax thereby imposed is not uniform. Further, that said portion of said Act is unconstitutional in that it violates Sections 2, 7 and 15 of Article II of the Constitution of Oklahoma in that it deprives the plaintiff of its property and rights without due process of law and denies plaintiff the equal protection of the law, and further, that it violates the legal contract existing between the Federal Government and the holders of Federal Government securities under which the income from said securities and said securities themselves are tax exempt, such provision being a part of

the statutes authorizing the issuance of said securities and of the securities themselves. Plaintiff further states that said portion of said enactment above quoted violates Sections 54, 57 and 59 of Article V of the Constitution of Okla- [fol. 45] homa in this: That the said enactment does not have a uniform operation throughout the State and is a special law as to banks, where only a general law as to corporations, particularly corporations similar to banks, would be constitutional; that the taxing of federal securities and the method of tax thereby imposed is not expressed in the title of the Act, and the title thereof is defective, containing no mention of any such tax as is imposed by reason of the above quoted provisions, and the title giving no notice of the imposition of a tax upon tax exempt federal securities and the income therefrom; further, that the statutes heretofore exempting the income from tax exempt federal securities, particularly Chapter 195, Session Laws 1933, is not legally repealed by the Act herein complained of in that reference to said Act alleged to be repealed is made to its title only and the repealed portion is not published at length, leaving said exempting 1933 Act in force; further, that a vested and accrued right exists in the plaintiff to have the income from said tax free federal securities exempt from any tax imposed by the State of Oklahoma, such right being vested by reason of the bonds and federal laws themselves, but being violated by the provisions above quoted. Plaintiff further states that the said portions of said enactment above [fol. 46] quoted violate Sections 5 and 14 of Article X of the Constitution of Oklahoma in that the tax thereby imposed is not uniform upon the same class of subjects, but discriminates as against banks, whereas there are numerous other subjects, such as building and loan companies, bond companies, mortgage companies, and individuals and corporations engaged in business similar to that of banks, and/or similar to one or more branches of business properly engaged in by banks; further, that the same is not a general law, but a special tax law singling out banks, where only a general law could be enacted. For the reasons heretofore stated plaintiff states that the said quoted portions of said enactment are unconstitutional and void and the plaintiff should be relieved from any burden imposed thereby.

(b) Plaintiff further states that the said quoted portions of the said Act as set forth in paragraph (a) above are

illegal and void in that they violate Section 5219, United States Revised Statutes as amended, relating to national banking associations; that under said federal statute the State has no power to impose any tax upon any national bank except in the manner permitted thereby; that under said Act of Congress no national bank can be taxed at a greater rate or in a different manner or greater amount than the tax imposed upon competing monied capital, and/or individuals or corporations engaged in competition with national banks. Plaintiff states that the said provisions above set forth, and particularly sections 8 and 18 of said Article 6, Chapter 66, Session Laws 1935, specifically impose a tax upon plaintiff bank upon the income from tax exempt federal securities and at the same time exempting [fol. 47] all other corporations and all individuals from that same, identical tax; that the plaintiff banks is therefore taxed differently from and in excess of the tax imposed upon individuals and corporations engaged in competition with the plaintiff; that there are in the same city with plaintiff bank and throughout the State of Oklahoma generally, numerous individuals and corporations, employing great amounts of capital directly in competition with the plaintiff bank, and while the number of such competitors and the amount of capital so employed is not exactly known to the plaintiff, nevertheless plaintiff states that not less than 500 individuals and corporations, employing not less than fifty million dollars of capital are engaged in direct competition with one or more of the regular, proper business activities of the plaintiff; that the nature of such competitive activities consists of receiving deposits, buying and selling municipal and government securities and warrants, making loans upon real and personal property, discounting commercial paper, lending money with and without security, and practically every field of business activity open to the plaintiff bank; that there are substantial amounts of capital, and a substantial number of individuals and corporations directly engaged in competition with the plaintiff, their competitive business being such as normally enters into the business of banking, and all of such competitors are exempt from the tax herein complained of by the plaintiff. That by reason thereof the said provisions heretofore quoted in paragraph (a) are illegal and void as violative of the United States statutes, and as being an attempt by the State to tax

[fol. 48] banks in a manner not authorized or permitted by Congress, nor by the State of Oklahoma.

(c) Plaintiff further states that the said provisions of said legislative enactment heretofore quoted in paragraph (a) are illegal and void in that the State of Oklahoma is without authority of law to impose any tax upon any instrumentality of the Federal Government, upon any bonds, securities, or obligations of the United States, or upon the income or interest from the obligations of the United States or its possessions, or upon securities issued under authority of an Act of Congress, the income from which is tax free; that all of the income from Federal securities herein mentioned was derived from interest upon the obligations of the United States and/or upon securities issued under authority of an Act of Congress, all of which income was and is tax free, and that the State is without authority to impose any tax thereon, either directly or indirectly; that the said provisions of said enactment heretofore quoted impose a tax upon such tax free income and interest in violation of law, and without authority of law. Plaintiff further states that it is beyond the taxing power of the State to impose the said tax herein complained of, and that the provisions heretofore quoted of the State law are invalid as interfering with, or tending to interfere with the power of the general government of the United States to borrow money on the credit of the United States, and that the tax hereby complained of materially impairs the power of the general government so to borrow money, and lessens the value negotiability and desirability of said tax free obligations of the United States [fol. 49] and the Securities issued under authority of an Act of Congress; that the State, being without authority or power to impose such tax, the provisions herein complained of are unconstitutional, ineffective, void and impose no legal obligation, and give no right to the said Oklahoma Tax Commission to collect said tax.

(d) For the reasons heretofore stated, the said quoted provisions of said legislative enactment are unconstitutional, illegal and void, and the tax imposed thereby is illegal and void, and the plaintiff is entitled to a recovery of the full amount of tax paid by reason of the imposition of such tax upon the interest and income received by plaintiff from obligations of the United States, and upon securities issued under authority of an Act of Congress, the income

from which is tax free as aforesaid, the amount of such recovery to which plaintiff is entitled on this item being as heretofore set forth.

4. Plaintiff states that it did not pay said tax voluntarily, but paid the same under compulsion and to avoid the imposition of burdensome penalties and the issuance of tax warrants, and the penalties of legal procedure to be instituted by the defendant and by the State in enforcing the collection of said illegal taxes. That when the term bank is used herein it is meant to include the bank as such and/or the shates of stock and shareholders, and covers the tax imposed by said [fol. 50] Act. That the Oklahoma Tax Commission has the custody and possession of said protested taxes and funds.

Wherefore, plaintiff prays judgment against the defendant for the sum of $6,622.65, with 3% interest thereon from the 7th day of July, 1937, and prays judgment for a refund of its said taxes heretofore mentioned, and paid under protest as aforesaid, and prays judgment for costs, and for all such other and further relief, both legal and equitable, as may be just and proper in the premises.

(Signed) E. A. Walker, Attorney for Plaintiff.

Duly sworn to by Roy G. Glass. Jurat omitted in printing.

[fol. 51] [File endorsement omitted]

[fol. 52] IN DISTRICT COURT OF OKLAHOMA COUNTY

[Title omitted]

ANSWER—Filed November 1, 1937

Comes now the above named Defendant and withdraws its demurrer to the Petition of the Plaintiff heretofore filed and filed this, its answer to Plaintiff's petition, and for such answer says:

[fol. 53] I

It denies all and singular the allegations therein contained except as hereinafter specifically admitted.

II

Defendant admits that Plaintiff is a banking corporation, organized under and by virtue of the laws of the United

States, with its principal place of business at Oklahoma City, Oklahoma, and admits that Defendant, Oklahoma Tax Commission, is a body organized and created under the laws of the State of Oklahoma, and that it is charged with the duty, among other things, of collecting income taxes due the State.

III

Defendant admits that Plaintiff, for the year 1936, duly filed its tax return before Defendant, Oklahoma Tax Commission, on Forms furnished by said Commission setting forth the amount of taxes alleged by it to be due the State for said year, and tendered the State the tax in accordance with such return, and Defendant admits that it re-audited such return and assessed additional tax against the Plaintiff in the sum of $6,622.65, as alleged in Plaintiff's petition, and Defendant admits that Plaintiff paid said additional tax so assessed against it under protest and within thirty days thereafter brought this action to recover the same.

[fol. 54]

IV

Defendant further admits that during the calendar year 1936 plaintiff received, as interest upon obligations of the United States, dividends from Federal Reserve Banks, and interest on municipal securities issued by municipalities of the State of Oklahoma, certain amounts as alleged in its petition, and Defendant admits that it included in the measure of tax such items as income. Defendant however, denies that in including such items it acted illegally or unlawfully and that in so doing, it deprived Plaintiff of any right guaranteed it either under the State or Federal Constitution.

V

Further answering herein, Defendant says that it included such items in the measure of tax under express authority granted by Sections 16, 17 and 18 of Article 6, Chapter 66, Session Laws 1935. Defendant specifically denies that said sections authorizing the inclusion of interest derived from governmental securities and dividends from Federal Reserve Banks in gross income is unconstitutional and void, and specifically denies that such sections violate any provisions of either the State or Federal Constitution. Defendant further denies that said sections are void in that they

are discriminatory against national banks or that the taxes imposed under said sections deprive Plaintiff of its prop- [fol. 55] erty without due process of law, or that the imposition of such taxes denies the Plaintiff the equal protection of the law and specifically denies that said sections violate either the provisions of the State or Federal Constitution, which prohibits the State from passing any law impairing the obligations of a contract. This Defendant further specifically denies that said sections of said Act, in so far as they authorize the includion of said items in gross income against national banks, are violative of the United States Revised Statute, Section 5219, as amended, but on the contrary alleges the facts to be that said section, as amended, specifically grants the State authority to include such items in measuring the tax as against National Banks.

Defendant further specifically denies that said sections of said Act were enacted for the sole and only purpose of singling out and taxing obligations of the United States and securities issued under authority of an Act of Congress, but allege the truth to be that said sections were enacted to change the method of assessment of the taxes against national banks from Method No. 3, authorized by the Acts of Congress, to Method No. 4, thereby authorized. Defendant specifically denies that said sections of said Acts are unconstitutional and void as interferring with the power of the Federal Government to borrow money.

[fol. 56]

VI

Further answering herein, Defendant specifically denies that the sections of said Act authorizing the inclusion in the measure of the tax interest derived from municipal securities issued by municipalities of the State, is in violation of any provision of either the State or Federal Constitution, and said Defendant specffically denies that, at the time the securities herein involved were issued, they were free from the tax here assessed under and by virtue of the provisions of the State Constitution, and this Defendant specifically denies that said sections of the Act authorizing the inclusion of interest derived from municipal securities in the measure of the tax is in violation of the constitutional provisions of the State or of the United States, which prohibits the State from passing any law impairing the obligation of a contract.

VII

Defendant further denies that said sections are unconstitutional in that they are violative of Sections 7 and 15 of Article 2, and Section 5 of Article 10, or Sections 54, 57 and 59 of Article 5 of the Constitution of the State of Oklahoma. [fols. 57-58] Further answering herein, Defendant specifically denies that the Income Tax Law of 1933 specifically exempting from taxation the items herein involved is now in full force and effect, and specifically denies that the Income Tax Act of 1935 does not repeal such sections of the 1933 Act purporting to grant said exemptions.

VIII

Further answering herein, Defendant says that the additional tax herein involved and assessed against the Plaintiff is in all respects properly and legally assessed against said Plaintiff, that said tax is justly and lawfully due from said Plaintiff to Defendant and that said Defendant is entitled to recover the entire amount so additionally assessed against Plaintiff.

Wherefore, Having fully answered herein, Defendant prays that Plaintiff take nothing by its suit, and that Defendants recover costs.

(Signed) C. D. Cund, A. L. Hess, Attorneys for Defendant.

[fol. 59] In District Court of Oklahoma County

[Title omitted]

Stipulation of Facts—Filed October 17, 1938

It is Stipulated and Agreed by and Between the Parties Hereto that the plaintiff herein is a National Banking Corporation organized and existing under and by virtue of the laws of the United States of America with its principal [fol. 60] place at Oklahoma City, Oklahoma; that it is engaged in the general banking business throughout the State of Oklahoma.

It is Further Stipulated and Agreed that on the 15th day of March, 1937, the Plaintiff in this action filed with the Defendant, Oklahoma Tax Commission, its corporation tax

return for the year 1936, a copy of which is attached hereto, marked Exhibit "A", and made a part hereof; that for the calendar year 1936, the Plaintiff reported in its said corporation tax return a net income of $22,840.40.

It is Further Stipulated by the Parties Hereto that in addition to the net income of $22,840.40, reported by the *by the* said bank in its corporation tax return for said year, it had the following net income:

Dividends received by Plaintiff on stock owned by it in the Federal Reserve Bank located at Kansas City, Missouri	$1,107.00
Interest received by the Plaintiff on bonds or securities issued by the United States Government and owned by the Plaintiff in the sum of	$107,639.31

It is Further Stipulated and Agreed that the net income of the Plaintiff for the calendar year 1936, less dividends received by it on stocks owned by it in the Federal Reserve Bank located at Kansas City, Missouri, and less interest received by it on bonds or securities issued by the United [fol. 61] States Government and owned by it, amounted to the sum of $22,840.40.

It is Further Stipulated that the Plaintiff in its corporation tax return for the year 1936 reported its net taxable income to be $22,840.40 and paid thereon to the State of Oklahoma a tax of 6% thereof, said tax being in the sum of $1,370.42.

It is Further Stipulated that thereafter and on June 10, 1937, the Defendant in this action assessed against the Plaintiff as shown by a letter, copy of which is hereto attached as Exhibit "B", an additional tax in the sum of $6,524.78, such additional tax being 6% of the sum of $108,746.31, net income received by the Plaintiff as dividends on stock owned by it in the Federal Reserve Bank in the amount of $1,107.00 and interest received by Plaintiff on securities owned by it and issued by the United States Government of America as shown by Exhibit "D", attached hereto, in the sum of $107,639.31, and that there was assessed by the Defendant against the Plaintiff as interest on said additional tax, the sum of $97.87.

It is Further Stipulated that said Plaintiff paid said additional tax of $6,524.78, together with interest thereon in

the sum of $97.87 to the Oklahoma Tax Commission on the 7th day of July, 1937; that said additional tax and interest was paid by the Plaintiff under protest and that this suit seeking the recovery thereof was instituted within thirty [fol. 62] (30) days from the date said amount was paid.

It is Further Stipulated that six thousand business and mercantile corporations filed corporation license tax returns for the year 1936 in the State of Oklahoma; that only thirty-seven of said corporations owned government bonds; that the table attached hereto and marked "Exhibit C", with the corporations denominated "A" to "KK", inclusive, reflect the true amount of government bonds owned by those corporations with the following explanation; the third column, which is denominated "Income Tax Thereon", is a computation of the income tax on such interest at the rate of six per cent (6%), but is is expressly stipulated that under the present income tax law no such tax was assessed or paid on such interest by said corporations, but that said corporations paid an income tax of 6% of their net income except such interest.

It is Further Stipulated that the corporate license tax paid, as shown in column four, is based on One Dollar ($1.00) per One Thousand Dollars ($1,000.00) on the value of the capital stock employed by said corporations within the State of Oklahoma and that the government bonds held by said corporations were included as capital in the measure of the tax and in addition thereto said corporations pay an ad valorem tax on their moneyed capital.

[fol. 63] It is further stipulated and agreed that the bonds or securities issued by the United States Government and owned by the Plaintiff from which it received the interest which the Defendant required it to include in its net income, are shown by Exhibit "D", hereto attached, and that such bonds were issued pursuant to Acts of Congress authorizing their issuance and that said Acts of Congress, under which said bonds were issued, may be by the court considered as a part of the record in this case.

Spiers & Bodovitz, Attorneys for Plaintiff. C. D. Cund, A. L. Herr, Attorneys for Defendant.

EXHIBIT "A" TO STIPULATION

File with the Oklahoma Tax Commission on or before the 15th day of the 3rd month after the close of your taxable year.

Corporation Income Tax Return
For Calendar Year 1937 or Fiscal Year Began 1-1-1937 and ended 12-31-1937

AUDITOR'S SPACE
Audited by
Date Received
Date Completed

File No. 761356

Name: Tradesmens National Bank
(PRINT NAME AND ADDRESS PLAINLY)
Street Address: 15th & Broadway
City: Oklahoma City State: Oklahoma
Date of incorporation: 1920 Under the laws of: U S A

Kind of Business: Banking — Is this return on Cash or Accrual Basis? Cash
Corporation books are kept by: Bank — Address: Oklahoma City, Okla.
Date Domesticated in Oklahoma: 1920 — How were inventories valued?
Did you make a return of information on Forms 989 and 991 for the calendar year 1937? (Answer "yes" or "no")

GROSS INCOME	COLUMN A As reported to Federal Bureau	COLUMN B Total Applicable to Oklahoma
1. Gross Sales (where inventories are used) Less Returns and Allowances		
2. Less: COST OF GOODS SOLD — COLUMN A / COLUMN B		
(a) Inventory beginning of year		
(b) Materials or merchandise purchased		
(c) Cost of producing (Schedule 1)		
(d) Total lines (a), (b), and (c)		
(e) Less: Inventory at close of year		
(f) Cost of goods sold (Item 2 (d) minus 2 (e))		
3. Gross Profit from Sales (Item 1 minus Item 2)		
4. Gross Receipts (where invent. not used)		
5. Less: Cost of Operations (Schedule 1)		
6. Gross Profit where Inventories not used (Item 4 minus line 5)		
7. Interest on Loans, Notes, Mortgages, Bonds, Municipal Bonds, etc.		137,120.54
8. Rents		24,166.55
9. Royalties		
10. Profit from Sale of Real Estate, Stocks, Bonds, etc. (Schedule 2)		64,776.38
11. Dividends on:		
(a) Stock of Corporations not doing business in Oklahoma		
(b) Stock of Corporations doing business in Oklahoma		
(c) Stock of Foreign Corporations		
12. Other Income (State nature of income) Schedule attached		42,136.34
(a)		
13. TOTAL INCOME IN ITEMS 3, and 6 to 12 (inclusive)		268,199.81

DEDUCTIONS	
14. Compensation of Officers (Schedule 3)	30,833.33
15. Rent on Business Property	
16. Repairs (Schedule 4)	2,615.41
17. Interest	61,960.39
18. Taxes (Schedule 5)	24,569.30
19. Losses (Schedule 6)	
20. Bad Debts (Schedule 7)	9,901.89
21. Dividends (Schedule 8)	
22. Depreciation (Schedule 9)	17,119.15
23. Depletion (Schedule 10)	
24. Other Deductions not reported above (Explain below)	
(a) Wages	52,298.11
Schedule attached	16.36

1. Gross Sales (where Inventories are used) Less Returns and Allowances					
2. Less: COST OF GOODS SOLD	COLUMN A		COLUMN B		
(a) Inventory beginning of year					
(b) Materials or merchandise purchased					
(c) Cost of producing (Schedule 1)					
(d) Total lines (a), (b), and (c)					
(e) Less: Inventory at close of year					
(f) Cost of goods sold (Item 2 (d) minus 2 (e))					
3. Gross Profit from Sales (Item 1 minus Item 2)					
4. Gross Receipts (where invent. not used)					
5. Less: Cost of Operations (Schedule 1)					
6. Gross Profit where Inventories not used (Item 4 minus line 5)					
7. Interest on Loans, Notes, Mortgages, Bonds, Municipal Bonds, etc.					137,120.54
8. Rents					24,166.55
9. Royalties					
10. Profit from Sale of Real Estate, Stocks, Bonds, etc. (Schedule 2)					64,776.38
11. Dividends on:					
(a) Stock of Corporations not doing business in Oklahoma					
(b) Stock of Corporations doing business in Oklahoma					
(c) Stock of Foreign Corporations					
12. Other Income (State nature of income) Schedule attached					12,136.34
(a)					
13. TOTAL INCOME IN ITEMS 3, and 6 to 12 (Inclusive)					268,199.81
DEDUCTIONS					
14. Compensation of Officers (Schedule 3)					30,833.33
15. Rent on Business Property					
16. Repairs (Schedule 4)					2,615.41
17. Interest					61,960.39
18. Taxes (Schedule 5)					24,569.30
19. Losses (Schedule 6)					
20. Bad Debts (Schedule 7)					9,901.99
21. Dividends (Schedule 8)					
22. Depreciation (Schedule 9)					17,119.15
23. Depletion (Schedule 10)					
24. Other Deductions not reported above (Explain below)					
(a) Wages					52,298.11
(b) Schedule attached					16,361.73
(c)					
25. TOTAL DEDUCTIONS IN ITEMS 14 to 24					215,659.41
26. NET INCOME (Item 13 minus Item 25)					22,810.40
INCOME TAX COMPUTATION					
27. TAX AT 6% (On Item 26, Column B, above)					22,810.40
28. INTEREST AT 6%				1,370.42	
29. PENALTY					
30. TOTAL TAX, INTEREST AND PENALTY (Total Lines 27 28 and 29)					1,370.42

SCHEDULE—BALANCE SHEETS

ITEMS	BEGINNING OF TAXABLE YEAR		END OF TAXABLE YEAR	
	Amount	Total	Amount	Total
ASSETS				
1. Cash		$ 9,181,265.18		$ 9,512,854.23
2. Notes Receivable	$	500,127.13	$	472,946.82
3. Accounts Receivable Overdrafts		9.70		92.99
(a) Less Reserve for Bad Debts				
4. Inventories:				
(a) Raw Materials	$		$	
(b) Work in Process				
(c) Finished Goods				
(d) Supplies				
5. Investments:				
(a) Obligations of a State or any political subdivision thereof	$	2,382,274.89	$	2,009,697.34
(b) Securities issued under authority of an Act of Congress		776,500.00		185,000.00
(c) Obligations of the United States or its possessions		2,479,655.00		2,498,150.00
(d) Stocks of Domestic Corporations		18,109.20		18,778.00
(e) Bonds of Domestic Corporations		192,100.00		272,013.75
(f) Stocks and Bonds of Foreign Corporations		49,000.00		974,711.75
(g) All other Investments or loans Total Investments		5,897,639.08		5,952,355.34
6. Deferred Charges:				
(a) Prepaid Insurance	$		$	
(b) Prepaid Taxes				
(c) All Other				
7. Capital Assets:				
(a) Land	$		$	
(b) Buildings		331,265.50		311,265.50
(c) Machinery and Equipment		35,114.25		35,114.25
(d) Furniture and Fixtures		63,620.25		53,620.25
(e) Delivery Equipment				
(f) Less Reserve for Depreciation (Depletion) Total Capital Assets	$	430,000.00	$	400,000.00
8. Patents	$		$	
9. Good Will				
10. Other Assets (describe fully):				
	$		$	
11. TOTAL ASSETS		96,012,061.09		96,338,149.88
LIABILITIES				
12. Notes Payable (Less than 1 year)	$		$	
13. Accounts Payable Dividends		15,000.00		15,000.00
14. Bonds and Notes (not secured by Mortgage)				
15. Mortgages (including bonds and notes so secured)				
16. Accrued Expenses:				
(a) Interest	$		$	
(b) Taxes				
(c) All Other Reserve Acct		100,000.00		100,000.00
17. Other Liabilities (describe fully):	$		$	
Deposits		15,255,702.52		15,193,906.58

pledged countries thereof		2,382,274.89		2,008,697.31
(b) Securities issued under authority of an Act of Congress		776,500.00		185,000.00
(c) Obligations of the United States or its possessions		2,179,655.00		2,193,150.00
(d) Stocks of Domestic Corporations		18,109.20		18,778.00
(e) Bonds of Domestic Corporations		192,100.00		272,013.75
(f) Stocks and Bonds of Foreign Corporations		49,000.00		974,711.75
(g) All other investments or loans				
6. Deferred Charges:		5,897,639.08		5,952,355.94
(a) Prepaid Insurance				
(b) Prepaid Taxes				
(c) All Other				
7. Capital Assets:				
(a) Land				
(b) Buildings				
(c) Machinery and Equipment		331,265.50		311,265.50
(d) Furniture and Fixtures		35,114.25		35,114.25
(e) Delivery Equipment		63,620.25		53,620.25
(f) Less Reserves for Depreciation				
Total Capital Assets		430,000.00		400,000.00
8. Patents				
9. Good Will				
10. Other Assets (describe fully):				
11. TOTAL ASSETS		26,012,061.09		26,338,119.88
LIABILITIES				
12. Notes Payable (Less than 1 year)				
13. Accounts Payable Dividends		15,000.00		15,000.00
14. Bonds and Notes (not secured by Mortgage)				
15. Mortgages (including bonds and notes so secured)				
16. Accrued Expenses:				
(a) Interest				
(b) Taxes				
(c) All Other Reserve Acct		100,000.00		100,000.00
17. Other Liabilities (describe fully): Deposits		15,255,702.52		15,493,906.58
18. Capital Stock:				
(a) Preferred Stock (Less Stock in Treasury)				
(b) Common Stock (Less Stock in Treasury)		500,000.00		500,000.00
19. Surplus		110,000.00		130,000.00
20. Undivided Profits		31,358.57		99,213.30
21. TOTAL LIABILITIES		26,012,061.09		26,338,119.88

Schedule 2 Capital, Gains & Losses
(from sales or exchanges)
TRADESMENS NATIONAL BANK, OKLAHOMA CITY
INCOME TAX RETURN 1936

Date Sold	Description	Disposition	Sales Price	Cost	Gain	Loss
2- 5-36	3% U. S. Treas. Bonds	Sold	$ 51,500.00	$ 50,000.00	$ 1,500.00	$
2-10-36	" " "	"	51,500.00	50,000.00	1,500.00	
3-26-36	" " "	"	52,000.00	50,000.00	2,000.00	
5-18-36	" " "	"	25,080.00	24,000.00	1,080.00	
11-13-36	2 1/8% " "	"	10,353.13	10,000.00	353.13	
11-20-36	4% " " "	"	4,405.63	3,800.00	605.63	
12-23-36	3 1/8% " "	"	16,275.00	15,000.00	1,275.00	
2-13-36	Ohio Penn Jt. S. L. Bank	"	4,850.00	4,625.00	225.00	
3- 6-36	Dominion of Canada	"	32,475.00	29,000.00	3,475.00	
3-11-36	Tulsa, Oklahoma Bonds	"	5,318.68	5,000.00	318.68	
3-11-36	" " "	"	11,254.00	10,000.00	1,254.00	
3-11-36	Okla. City, Okla. Bonds	"	33,258.37	30,000.00	3,258.37	
3-11-36	Tulsa, Okla. Bonds	"	5,511.00	5,000.00	511.00	
3-15-36	Fed. Land Bank Bonds	Exchange	77,385.00	77,000.00	385.00	
3-15-36	" " " "	"	100,500.00	100,000.00	500.00	
3-20-36	Washita Co. Oklahoma	Sold	11,350.00	10,000.00	1,350.00	
3-21-36	Logan County, Okla.	"	11,400.00	10,000.00	1,400.00	
4- 2-36	Texas Corporation	Called	3,030.00	2,950.00	80.00	
4-17-36	" "	"	2,020.00	1,900.00	120.00	
5- 5-36	Norman, Oklahoma Bonds	Sold	11,260.00	10,000.00	1,260.00	
5-19-36	Pottawatomie Co. Bonds	"	22,550.00	20,000.00	2,550.00	
5-29-36	Chickasha, Okla. Bonds	"	18,600.00	16,000.00	2,600.00	
6- 2-36	Pawnee Co. Okla. Bonds	"	11,135.00	10,000.00	1,135.00	
6- 9-36	Okla. County Bonds	"	22,410.00	20,000.00	2,410.00	
6-11-36	Sand Springs, Okla. Bonds	"	18,900.00	18,000.00	900.00	
6-11-36	Muskogee, Okla. Bonds	"	13,394.40	12,000.00	1,394.40	
6-24-36	Utilities, Po. & Lt. Bonds	"	8,160.00	5,042.50	3,117.50	
7- 2-36	McAlester, Okla. Bonds	"	16,641.60	16,000.00	641.60	
7- 6-36	Muskogee, Okla. Bonds	"	5,245.00	5,000.00	245.00	
7- 6-36	" " "	"	5,245.00	5,000.00	245.00	
7- 6-36	Okla. City Bonds	"	23,400.00	20,000.00	3,400.00	

Date Sold	Description	Disposition	Sale Price	Cost	Gain	Loss
7-15-36	Henryetta, Okla. Bonds	Sold	10,200.00	10,000.00	200.00	
7-17-36	Idabel, Okla. Bonds	"	22,220.00	22,000.00	220.00	
7-24-36	Edmond, Okla. Bonds	"	11,046.91	10,000.00	1,046.91	
7-24-36	Anadarko, Okla. Bonds	"	5,493.30	5,000.00	493.30	
7-30-36	Perry, Okla. Bonds	"	10,900.00	10,000.00	900.00	
7-30-36	Noble Co. Okla. Bonds	"	8,920.00	8,000.00	920.00	
8- 1-36	McAlester, Okla. Bonds	"	22,963.18	21,000.00	1,963.18	
8- 8-36	Newkirk, Okla. Bonds	"	7,931.00	7,000.00	931.00	
9-11-36	Frederick, Okla. Bonds	"	11,300.00	10,000.00	1,300.00	
9-18-36	Sayre, Okla. Bonds	"	5,600.00	5,000.00	600.00	
9-18-36	McAlester, Okla. Bonds	"	11,050.00	10,000.00	1,050.00	
9-19-36	Sayre, Okla. Bonds	"	23,520.00	21,000.00	2,520.00	
9-28-36	Davis, Okla. Bonds	"	4,240.00	4,000.00	240.00	
10- 5-36	Texas Corporation	Called	19,190.00	17,550.00	1,640.00	
10-12-36	Davis, Okla. Bonds	Sold	16,960.00	16,000.00	960.00	
10-19-36	Detroit Jt. Stock L. Bank	"	2,951.25	2,932.50	18.75	
10-19-36	" " " " "	"	1,967.50	1,955.00	12.50	
10-27-36	Bartlesville, Okla. Bonds	"	5,687.50	5,000.00	687.50	
11- 7-36	Holdenville, Okla. Bonds	"	10,500.00	10,319.31	180.69	
11-17-36	Okla. City, Okla. Bonds	"	14,581.56	12,000.00	2,581.56	
12- 5-36	Okla. Gas & Elec. Bonds	"	5,171.99	4,500.00	671.99	
12-10-36	Tennessee Bonds	"	37,684.14	35,000.00	2,684.14	
12-16-36	Grady Co. Okla. Bonds	"	5,441.50	5,000.00	441.50	
1- 4-36	Cons. F. L. Bank Bonds	Exchange	10,125.00	10,000.00	125.00	
3-20-36	Dallas J. S. L. Bonds	Called	5,000.00	4,950.00	50.00	
7-31-36	Caddo Co. Oklahoma Bonds	Sold	25,831.25	25,000.00	831.25	
9-16-36	Federal Land Bank Bonds	Marked Up	6,000.00	5,100.00	900.00	
9-30-36	Sapulpa, Okla. Bonds	Sold	4,725.00	5,000.00		275.00
10-15-36	Lincoln J. S. L. B. Bonds	"	6,370.00	6,580.00		210.00
10-19-36	Ohio Penn. J. S. L. B. Bonds	"	3,935.00	3,955.00		20.00
10-19-36	Ohio Penn. J. S. L. B. Bonds	"	983.75	988.75		5.00
	Commission on Sale of Bonds				27.80	
			$1,024,896.64	$960,148.06	$65,286.38	$510.00
	Loss				510.00	
	Gain less Loss				$64,776.38	

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Schedule 7, Bad Debts

TRADESMENS NATIONAL BANK, OKLAHOMA CITY, OKLAHOMA

INCOME TAX RETURN-1936

DATE	NAME	ITEM	AMOUNT
6 - 9-36	Overdrafts		$ 67.33
6 -30-36	A. F. Tullius	Note	190.00
6 -30-36	Bank of Elmer, Elmer, Okla.	Notes	2,761.97
6 -30-36	Bank of Gotebo, Gotebo, Okla.	Notes	2,923.40
6 -30-36	Farmers State Bank, Olustee, Okla.	Notes	2,086.39
9 -18-36	Overdrafts		97.61
11-4- 36	Tellers Differences		30.00
11-4- 36	Tellers Differences		15.00
11-4-36	Tellers Differences		30.00
12-30-36	Overdrafts		32.88
12-31-36	Tellers Differences		65.41
12-31-36	W. H. Stewart	Check	2.00
12-31-36	W. H. Johnson	Note	50.00
12-31-36	Gale Picow	Note	500.00
12-31-36	A. Shipman	Note	1,050.00
			$9,901.99

COPY

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Schedule: Other Income, Item 12

TRADESMENS NATIONAL BANK
OKLAHOMA CITY, OKLA.

INCOME TAX RETURN 1936

Service Charges	$13,178.38
Exchange Received	2,676.15
Losses Recovered (Loans)	4,430.90
Losses Recovered (Bonds & Securities)	10,500.00
Losses Recovered (Others previously charged off)	-11,650.91
	$42,436.34

Schedule 24B; OTHER DEDUCTIONS

TRADESMENS NATIONAL BANK, OKLAHOMA CITY, OKLAHOMA

INCOME TAX RETURN 1936

Freight and Express	$ 845.57
Postage	3,013.73
Stationery & Supplies	5,145.64
Traveling Expenses	2,272.08
Insurance & Bonds	5,997.33
Advertising	994.26
Telephone & Telegraph	1,080.71
Clearing House Expense	1,372.25
Membership & Dues	1,048.04
Court Cost & Attorney Fees	327.44
Bank Examinations	1,220.45
Exchange Paid	1,374.51
Water & Lights	3,077.62
Electric Power	2,753.93
Electric Supplies	91.43
Elevator Expense	767.99
Engine Room Expense	716.51
Fuel	480.39
Janitor Supplies	246.56
Toilet Supplies	156.37
Sundry (Bldg.)	113.49
Sundry (Bank)	1,110.50
F D I C Payment	7,747.54
F D I C Payment	4,407.39
Total	$46,361.73

Schedule - Compensation of Officers;
Tradesmens National Bank, Oklahoma City, Oklahoma.

INCOME TAX RETURN 1936

Name & Address of Officer	Official Title	Time Devoted to business	Shares of Stock owned.	Amount of Compensation
E. A. Walker Oklahoma City, Oklahoma.	President.	All	3402	$ 7,500.00
Leon G. Voorhees Oklahoma City, Okla.	Vice-President	All	1010	3,750.00
C. P. Vance Oklahoma City, Okla.	Vice-President	All	50	5,208.33
F. C. Morey Oklahoma City, Okla.	Vice-President	All	10	2,500.00
John Rinehart Oklahoma City, Okla.	Vice-President	All	None	3,125.00
Roy G. Glass Oklahoma City, Okla.	Cashier	All	10	4,062.50
Spence Miller Oklahoma City, Okla.	Assistant Cashier	All	None	2,500.00
J. E. Musgrave Oklahoma City, Okla.	Assistant Cashier	All	None	2,187.50
				$30,833.33

SCHEDULE 1—COST OF SALES OR OPERATIONS (to Item 2 (c) Page 1)

Page 3

Items	Amount	Items	Amount
Salaries and Wages			
Materials and Supplies			

SCHEDULE 2—PROFIT FROM SALE OF REAL ESTATE, STOCKS, BONDS, ETC.

Kind of Property	Shares or Quantity	Date Acquired	Amount Realized	Cost	Fair Market Value on Jan. 1, 1931	Allowable Depreciation	Net Profit
	Schedule Attached						
(Capital Losses deductible only from Capital Gains—See Instruction 10)							

SCHEDULE 3—COMPENSATION OF OFFICERS

Name of Officer	Address	Official Title	Time to Business	Shares of Stock Owned: Common	Shares of Stock Owned: Preferred	Total Compensation	Oklahoma Compensation
	Schedule Attached						

SCHEDULE 4—REPAIRS

Items	Total Cost of Repairs	Oklahoma Repairs
Salaries and Wages		
Materials and Supplies		
Bank		1,815.19
Bank Building		799.92
		2,615.11

SCHEDULE 5—TAXES PAID

Kind of Tax	Total Tax Paid	Oklahoma Tax Paid
Real Estate Tax		19,200.55
Capital Stock Tax		2,000.00
State Income Tax		3,191.58
Excise Tax		177.17
		24,569.30

SCHEDULE 6—EXPLANATION OF LOSSES BY FIRE, STORM, ETC.

Kind of Property	Date Acquired	Cost	Fair Market Value on January 1, 1931	Allowable Depreciation	Insurance or Salvage Value	Deductible Loss

SCHEDULE 7—BAD DEBTS

Year	How Created	Notes Charged Off	Accounts Charged Off
1932			18,005.19
1933			15,889.13
1934			32,594.94
1935			69,910.85
1936			9,901.99

Attach sheet giving full information

SCHEDULE 8—DIVIDENDS DEDUCTIBLE

Name of Corporation	State Inc.	Outside Oklahoma	Within Oklahoma
Federal Reserve Bank			1,107.00

SCHEDULE 9—DEPRECIATION CLAIMED

Kind of Property	Date Acquired	Age When Acquired	Probable Life	Rate %	Cost or Jan. 1, 1931 Value (See Note)	Depreciation Allowed or Allowable in prior years	Remaining Cost or other basis to be recovered	Depreciation claimed this year
Bank Building	1921	New	56 2/3		603,180.43	42,598.60	560,881.83	10,619.65
Vault & Equipment	1921	New	23 1/3		33,475.58	5,738.64	27,736.94	1,431.66
F A F (Heavy)	1921	New	10	10	45,176.19	18,070.44	27,105.75	4,517.61
F A F (Light)	1933	New	10	10	5,172.35	1,034.46	4,137.99	517.23

Note If basis other than cost is used, submit separate schedule showing cost and other basis with explanations)

17,119.15

SCHEDULE 10—DEPLETION CLAIMED (See Schedule below)

Kind of Property	Gross Income From Oil, Gas, Minerals, etc.	Operating Expenses Including Depreciation	Net Income	% of Gross Income	50% of Net Income	Depletion Claimed
1						
2						
3						
4						
5						

SCHEDULE 3—COMPENSATION OF OFFICERS

Name of Officer	Address	Official Title	Time to Business	Shares of Stock Owned: Common	Shares of Stock Owned: Preferred	Total Compensation	Oklahoma Compensation
	Schedule Attached						

SCHEDULE 4—REPAIRS

Items	Total Cost of Repairs	Oklahoma Repairs
Salaries and Wages		
Materials and Supplies		
Bank		1,815.19
Bank Building		799.92
		2,615.11

SCHEDULE 5—TAXES PAID

Kind of Tax	Total Taxes Paid	Oklahoma Taxes Paid
Real Estate Tax		19,200.55
Capital Stock Tax		2,000.00
State Income Tax		3,191.58
Excise Tax		174.17
		24,566.30

SCHEDULE 6—EXPLANATION OF LOSSES BY FIRE, STORM, ETC.

Kind of Property	Date Acquired	Cost	Per Return Value on January 1, 1931	Allowable Depreciation	Insurance or Salvage Value	Deductible Loss

SCHEDULE 7—BAD DEBTS

Year	How Created	Notes Charged Off	Accounts Charged Off
1932			18,005.19
1933			45,888.13
1934			32,596.91
1935			69,910.85
1936			9,901.99

Attach sheet giving full information

SCHEDULE 8—DIVIDENDS DEDUCTIBLE

Name of Corporation	State Inc.	Outside Oklahoma	Within Oklahoma
Federal Reserve Bank			1,107.00

SCHEDULE 9—DEPRECIATION CLAIMED

Kind of Property	Date Acquired	Age When Acquired	Probable Life	Rate %	Cost or Jan. 1, 1931 Value (See Note)	Depreciation Allowed (or Allowable in prior years)	Remaining Cost or other basis to be recovered	Depreciation claimed this year
Bank Building	1921	New	56 2/3		603,480.43	42,598.60	560,881.83	10,619.65
Vault & Equipment	1921	New	23 1/3		33,475.58	5,738.64	27,736.94	1,431.66
F & F (Heavy)	1921	New	10	10	45,176.19	18,070.44	27,105.75	4,517.61
F & F (Light)	1933	New	10	10	5,172.35	1,034.46	4,137.89	517.23

Note If basis other than cost is used, submit separate schedule showing cost and other basis with explanations)

17,119.15

SCHEDULE 10—DEPLETION CLAIMED (See Schedule below)

Kind of Property	Gross Income From Oil, Gas, Minerals, etc.	Operating Expenses (without Depreciation)	Net Income	% of Gross Income	50% of Net Income	Depletion Claimed
1.						
2						
3						
4						
5						

STATEMENT OF DEPLETION SUSTAINED TO DATE

Kind of Property	Cost of Property	Depletion Sustained to January 1, 1931	Depletion Value on January 1, 1931	Depletion Allowed Since January 1, 1931	Depleted Value on December 31, 1936
1.					
2.					
3					
4.					
5.					

Form 4

RECONCILIATION OF NET INCOME AND ANALYSIS OF SURPLUS

1. Net Taxable Income (from Line 28, Page 1)			22,810.40
2. Non-Taxable Income (detail):			
(a) Interest on U S Government obligations	107,639.31		
(b) Dividends from Federal Reserve Bank	1,107.00		
(c)			108,746.31
3. Total Taxable and Non-Taxable Income (Total Lines 1 and 2)			131,586.71
4. Unallowable Deductions (detail):			
(a) Donations 1936	500.00		
(b) Debits to Reserve account 1936	6,003.14		
(c)			6,503.14
5. Net Profit as per Books for Year (Line 3 minus Line 4)			125,083.57
6. Surplus and Undivided Profits at beginning of Year			241,318.57
7. Additions to Surplus during Year (detail):			
(a) Depreciation 1936	17,119.15		
(b) Loss charged off on Banks books in 1932 on Utilities Power Bonds not taken in tax return until bonds sold in 1936	2,093.75		
(c) Credits to Reserve Account 1936	3,588.26		22,801.16
8. Total Lines 5 to 7			389,213.30
9. Deductions from Surplus during Year (detail):			
(a) Charge off on Furniture & Fixtures	10,000.00		
(b) Charge off on Bank Building	20,000.00		
(c)			
Dividends — Date Paid — How Paid?			
(a) 6-30-36 — Cash	15,000.00		
(b) 12-31-36 — Cash	15,000.00		
(c)			
10. Total Deductions from Surplus (Total Items Line 9)			60,000.00
11. Surplus and Undivided Profits at Close of Year, as per Books (Line 8 minus Line 10)			329,213.30

GIVE NAME, ADDRESS AND RELATIONSHIP OF ALL AFFILIATED CORPORATIONS

Name	Address	Relationship

STATE OF Oklahoma)
COUNTY OF Oklahoma) ss.

AFFIDAVIT

We, the undersigned, president (or vice president, or other principal officer) and treasurer (or assistant treasurer, or chief accounting officer) of the corporation for which this return is made, being severally duly sworn, each for himself deposes and says that this return (including any accompanying schedules and statements) has been examined by him and is, to the best of his knowledge and belief, a true, correct, and complete return, made in good faith, for the taxable year stated, pursuant to the Oklahoma Income Tax Law of 1935, and the Regulations issued thereunder.

Subscribed and sworn to before me this 13th day of March, 1937

(Signed) C P Vance
Vice President (Signature of officer) (State title)

CORPORATE SEAL

(Signed) Tom S. Myers
(Signature of officer administering oath) (State title)

(Signed) Roy G Glass
Cashier (Signature of Treasurer, Assistant Treasurer, or Chief Accounting Officer) (State title)

My commission expires Nov. 27, 1939

AFFIDAVIT (for "Signature and Verification", on Instruction Sheet)

I/we swear (or affirm) that I/we prepared this return for the person named herein and that the return (including any accompanying schedules and statements) is a true, correct, and complete statement of all the information respecting the income tax liability of the person for whom this return has been prepared of which I/we have any knowledge.

Subscribed and sworn to before me this ..... day of ....., 193

Roy G Glass
(Signature of person preparing the return)

(Signature of person preparing the return)

(c) Credits to Reserve Account 1936 in 1936	3,598.26		22,801.16
8. Total Lines 5 to 7			389,213.30
9. Deductions from Surplus during Year (detail):			
(a) Charge off on Furniture & Fixtures	10,000.00		
(b) Charge off on Bank Building	20,000.00		
(c)			
Dividends — Date Paid — How Paid?			
(a) 6-30-36 Cash	15,000.00		
(b) 12-31-36 Cash	15,000.00		
(c)			
10. Total Deductions from Surplus (Total Items Line 9)			60,000.00
11. Surplus and Undivided Profits at Close of Year, as per Books (Line 8 minus Line 10)			329,213.30

GIVE NAME, ADDRESS AND RELATIONSHIP OF ALL AFFILIATED CORPORATIONS

Name	Address	Relationship

STATE OF Oklahoma)
COUNTY OF Oklahoma) ss.

AFFIDAVIT

We, the undersigned, president (or vice president, or other principal officer) and treasurer (or assistant treasurer, or chief accounting officer) of the corporation for which this return is made, being severally duly sworn, each for himself deposes and says that this return (including any accompanying schedules and statements) has been examined by him and is, to the best of his knowledge and belief, a true, correct, and complete return, made in good faith, for the taxable year stated, pursuant to the Oklahoma Income Tax Law of 1933, and the Regulations issued thereunder.

Subscribed and sworn to before me this 13th day of March, 1937

(Signed) C P Vance
Vice President (or other principal officer) (State title)

NOTARIAL SEAL

(Signed) Tom S. Myers
(Signature of officer administering oath) (Title)

CORPORATE SEAL

(Signed) Roy G Glass
Cashier (Treasurer, Assistant Treasurer, or Chief Accounting Officer) (State title)

My commission expires Nov. 27, 1939

AFFIDAVIT (See "Signatures for Verification", on Instruction Sheet)

I/we swear (or affirm) that I/we prepared this return for the person named herein and that the return (including any accompanying schedules and statements) is a true, correct, and complete statement of all the information respecting the income tax liability of the person for whom this return has been prepared of which I/we have any knowledge.

Subscribed and sworn to before me this ..... day of ....., 193

Roy G Glass
(Signature of person preparing the return)

(Signature of person preparing the return)

(Name of firm or employer, if any)

NOTARIAL SEAL

(Signature of officer administering oath) (Title)

[fol. 74] EXHIBIT "B" TO STIPULATION

Copy

June 10 1937 File #761356 JKS 1936

Income Tax

Tradesmens National Bank,
Main and Broadway,
Oklahoma City, Okla.

GENTLEMEN:

An office audit of your 1936 Corporation Income Tax Return discloses additional tax and interest due in the amount of $6,622.65, computed as follows:

Net Income—per Return		$22,840.40
Additions to Income:		
(a) Interest of U. S. Government Obligations	$107,639.31	
(b) Dividends from Federal Reserve Bank	1,107.00	
Net Additions to Income		$108,746.31
Adjusted Net Taxable Income		$131,586.71

[fol. 75] Computation of Tax

Tax on $131,586.71 at 6%	$7,895.20
Less: Tax Previously Assessed	1,370.42
Additional Tax Due	$6,524.78
Interest at 6% from 3-15-37 to 6-15-37	97.87
Total Additional Tax and Interest	$6,622.65

If you do not acquiesce in this assessment, you may submit your protest and additional information in a sworn statement, or you will, upon request, be granted a hearing before this Commission. If no such protest is made within thirty days from the date of this letter, the computation of tax will be considered final. If not paid within that period, the assessment will bear interest at one per cent per month from date of notice and demand.

Yours very truly, Oklahoma Tax Commission, Commissioner.

JKS:B.

[fol. 76] EXHIBIT "C" TO STIPULATION

Comparative Schedule of Income Tax on Federal Exempt Bond Interest vs. Corporation Licenses

		Federal Bonds Owned	Interest Reported Thereon	Income Tax Thereon	Corp. Lic. Tax Paid
"A"	Company	$4,750.00	$142.50	$8.55	$130.00
"B"	Company	13,500.00	1,437.15	74.23	73.00
"C"	Company	34,928.13	1,552.42	93.15	552.00
"D"	Company	13,543.75	548.43	32.91	510.00
"E"	Company	29,116.25	805.00	48.30	428.00
"F"	Company	30,520.23	850.00	51.00	94.00
"G"	Company	26,013.19	715.77	42.95	1,549.00
"H"	Company	5,990.40	169.19	10.15	193.00
"I"	Company	24,584.68	1,643.74	98.62	227.00
"J"	Company	6,350.00	189.25	11.36	72.00
"K"	Company	88,640.12	2,613.17	156.79	111.00
"L"	Company	462,674.13	6,149.08	368.94	5,223.00
"M"	Company	69,940.63	2,025.00	121.50	300.00
"N"	Company	7,827.10	300.00	18.00	80.00
"O"	Company	30,968.39	2,025.13	121.50	884.00
"P"	Company	30,000.00	862.50	51.75	352.00
"Q"	Company	103,989.42	2,329.33	139.76	342.00
"R"	Company	3,128.43	50.07	3.00	241.00
[fol. 77]					
"S"	Company	10,290.63	301.04	18.06	208.00
"T"	Company	257,395.00	7,072.19	424.33	1,091.00
"U"	Company	91,328.90	1,758.32	105.50	147.00
"V"	Company	10,472.55	7,477.01	448.62	261.00
"W"	Company	17,398.44	510.00	30.60	1,223.00
"X"	Company	285,000.00	2,016.57	120.99	862.00
"Y"	Company	600.00	.....	.....	150.00
"Z"	Company	9,675.00	.....	.....	83.00
"AA"	Company	1,400.00	.....	.....	78.00
"BB"	Company	150.00	.....	.....	172.00
"CC"	Company	583.57	.....	.....	75.00
"DD"	Company	2,870.93	.....	.....	45.00
"EE"	Company	3,900.00	.....	.....	239.00
"FF"	Company	375.00	.....	.....	17.00
"GG"	Company	1,949.00	.....	.....	47.00
"HH"	Company	20,273.39	.....	.....	1,669.00
"II"	Company	10,000.00	.....	.....	111.00
"JJ"	Company	76,615.64	.....	.....	1,008.00
"KK"	Company	1,500.00	.....	.....	64.00

[fol. 78] The figures as to "V" Company. are subject to the following explanation: On July 1, 1936, this company owned $258,309.63 in Federal Securities upon which the interest mentioned in column two was computed. During the year 1936 this company disposed of all but $10,472.55 of these securities. The estimated earnings of which sum had been approximately $314.00. The corporation license fee paid by this corporation from the previous year before it disposed of the securities amounted to $391.00.

Filed in District Court, Oklahoma County, Okla. Oct. 27, 1938. Cliff Myers, Court Clerk, by Frances Cruce, Deputy.

[fol. 79] EXHIBIT "D" TO STIPULATION

Non-Taxable Income—1936

Interest on Bonds of the Federal Farm Loan Act:	
3% Federal Farm Mtg. Corp. Bonds of 1942-47,	
3¼% Federal Farm Mtg. Corp. Bds. of 1944-64,	
3% Federal Farm Mtg. Corp. Bonds of 1944-49	$5,504.75
Interest on U. S. Treasury Notes, Bills and Certificates of Indebtedness:	
2¾% U. S. Treasury Notes, Series B, 1936	2,925.33
Interest on U. S. Treasury Bonds:	
2¾% Treasury Bonds of 1945-47,	
2¾% Treasury Bonds of 1948-51,	
2¾% Treasury Bonds of 1951-54,	
2⅞% Treasury Bonds of 1955-60,	
3% Treasury Bonds of 1946-49,	
3⅛% Treasury Bonds of 1946-49,	
3⅛% Treasury Bonds of 1949-52,	
2¼% Treasury Bonds of 1943-45,	
3¼% Treasury Bonds of 1944-46,	
3⅜% Treasury Bonds of 1940-43,	
3⅜% Treasury Bonds of 1941-43,	
3⅜% Treasury Bonds of 1943-49,	
3½% Treasury Bonds of 1946-49,	
4% Treasury Bonds of 1944-54	57,638.53
[fol. 80] Interest on Other Instrumentalities of the United States:	
5% Joint Stock Land Bank Bonds,	
4¾% Joint Stock Land Bank Bonds,	
4¼% Joint Stock Land Bank Bonds,	
4½% Joint Stock Land Bank Bonds	$5,528.75
2¾% Home Owners' Loan Corp. Bds. of 1939-49,	
3% Home Owners' Loan Corp. Bonds of 1944-52,	
1½% Home Owners' Loan Corp. Bds. of 1939,	
2¼% Home Owners' Loan Corp. Bds., Series G	10,419.08

3% Federal Land Bank Bonds of 1945-55, 3% Federal Land Bank Bonds of 1946-56, 3¼% Federal Land Bank Bonds of 1945-55, 4% Federal Land Bank Bonds of 1944-46, 4¼% Federal Land Bank Bonds of 1938-58, 4½% Federal Land Bank Bonds of 1946-56	25,622.87
	41,570.70
	$107,639.31
Dividends on Federal Reserve Bank Stock	1,107.00
	$108,846.31

[fol. 81] [File endorsement omitted.]

[fol. 82] IN DISTRICT COURT OF OKLAHOMA COUNTY

No. 93,837

TRADESMENS NATIONAL BANK, a Corporation, Plaintiff,

vs.

THE OKLAHOMA TAX COMMISSION OF THE STATE OF OKLAHOMA, Defendant

JUDGMENT—Filed Oct. 17, 1938

This matter coming on for hearing before Hon. Lucius Babcock, Judge of the District Court, this 17th day of October, 1938, pursuant to regular assignment. The plaintiff [fol. 83] appeared by its attorneys, Spiers & Bodovitz, and the defendant appeared by its attorney, C. D. Cund, and both the parties announcing ready for trial and a jury being waived in open court, the court proceeded to hear said cause.

The parties thereupon introduced in evidence the stipulation of the parties heretofore filed in this cause, which stipulation contains all the facts, evidence and testimony to be offered by both sides.

The court, being fully advised in the premises and on consideration thereof, finds that the allegations of plaintiff's petition are not supported and sustained by the facts and

the law applicable thereto, and judgment is therefore rendered for the defendant and it is adjudged that the defendant go hence without day; to which finding and judgment plaintiff then and there excepted and thereupon gave notice of its intention to appeal to the Supreme Court of the State of Oklahoma.

There then coming on for hearing the motion of the plaintiff herein for a new trial and the court being fully advised in the premises and upon consideration thereof, finds that the same should be overruled.

It Is, Therefore, Ordered, Adjudged and Decreed that said motion for new trial be and the same is hereby overruled, to which ruling the plaintiff then and there excepted and gave notice in open court of its intention to appeal to the Supreme Court of the State of Oklahoma.

[fol. 84] And said plaintiff pray[illegible], an appeal to the Supreme Court and an extension [illegible] time in which to make and serve case-made, it is ordered that an extension of thirty days from this date be granted plaintiff to make and serve case-made, defendant to have three days thereafter to suggest amendments, same to be settled on three days notice in writing by either party.

O. K.:

(Signed) Spiers & Bodovitz, Attorneys for Plaintiff.

O. K.:

(Signed.) C. D. Cund, Attorneys for Defendant.

(Signed.) Lucius Babcock, Judge.

[fol. 85] [File endorsement omitted.]

[fol. 86] [File endorsement omitted]

IN SUPREME COURT OF OKLAHOMA

[Title omitted]

PRAECIPE FOR TRANSCRIPT OF RECORD—Filed Dec. 4, 1939

To the Clerk of the Above Named Court:

You are hereby requested and directed to make a transcript of the record in the above styled and numbered cause to be filed in the Supreme Court of the United States pur-

suant to an appeal allowed in the above entitled cause, and to include in such transcript of the record the following, and no other papers and exhibits, to-wit:

(1.) Petition in Error to the Supreme Court of Oklahoma, (filed March 27, 1939);

(2.) Opinion and decision of the Supreme Court of Oklahoma, (dated October 17, 1939);

(3.) Petition for Rehearing, (filed October 27, 1939);

(4.) Journal Entry of Judgment denying Petition for Rehearing, (dated November 7, 1939);

(5.) Motion for Stay of Mandate to Permit Taking and Allowance of Appeal to the Supreme Court of the United States, (filed November 10, 1939), with acknowledgment of service thereof;

(6.) Journal Entry of Order Staying Mandate and Fixing Costs Bond, (dated November 10, 1939);

(7.) Petition for Appeal and Prayer for Reversal, (filed Dec. 4 1939) with proof of service thereof;

(8.) Assignment of Errors (filed Dec. 4 1939) with acknowledgment of service thereof;

(9.) Jurisdictional Statement, (filed Dec. 4 1939) with acknowledgment of service thereof;

[fol. 87] (10.) Order allowing appeal and costs bond, (filed Dec. 4 1939) with acknowledgment of service thereof;

(11.) Citation to appellee, (filed Dec. 4 1939), with proof of service thereof;

(12.) Costs Bond, with approval thereof and acknowledgment of service of same;

(13.) Statement directing attention of appellees to paragraph 3 of Rule 12 of the Supreme Court of the United States, (filed Dec. 4 1939), with acknowledgment of service thereof;

(14.) A full and complete transcript of the record certified to the Supreme Court of Oklahoma by the trial Judge of the District Court of Oklahoma County, under date of Oct. 27 1938 and filed in the Supreme Court of Oklahoma with Petition in Error attached, on the 27th day of March, 1939, including the following:

(a) Petition (shown at Page 2 of Case-Made);

(b) Answer of defendant (found at Page 20 of Case-Made);

(c) Stipulation of the parties, together with exhibits, (found at Page 27 of Case-Made);

(d) Journal Entry of Judgment (found at Page 52 of Case-Made);

(15.) Any order filed in this court enlarging the time for docketing this case in the Supreme Court of the United States;

(16.) This praecipe, with acknowledgment of service thereof;

(17.) The full, complete and accurate index of the record required by this praecipe.

(18.) Statement of Points to be Relied Upon.

Said transcript is to be prepared as required by law and the rules of this court and the rules of the Supreme Court of the United States, and to be filed in the office of the Clerk of the Supreme Court of the United States on or before the 13 day of Jan. 1940.

Dated this 29th day of Nov. 1939.

E. A. Walker, Attorneys for Tradesmens National Bank of Oklahoma City, a banking corporation, Appellant. V. J. Bodovitz, of Counsel.

[fols. 88-92] Acknowledgment of Service

Service of the above and foregoing praecipe and receipt of a copy thereof is accepted and acknowledged this 29 day of Nov., 1939.

C. D. Stinchecum, Attorney for Oklahoma Tax Commission.

[fol. 93] Clerk's Certificate to foregoing transcript omitted in printing.

[fol. 94] In Supreme Court of the United States

Statement of Points to be Relied Upon—Filed December 16, 1939

Comes now the appellant in the above entitled cause and states that the points upon which it intends to rely in this Court in this case are as follows:

(1.) The statute of the State of Oklahoma, to-wit: 1935 Income Tax Law and more particularly Sections 16, 17, 18

and 19 thereof, is unconstitutional and void as repugnant to paragraph 1 of Section 10 of Article 1 of the Constitution in that it impairs the obligation of existing contracts of the appellant.

(2.) The aforesaid Act of the State of Oklahoma is unconstitutional and repugnant to Section 1 of the Fourteenth Amendment of the Constitution of the United States in that it deprives the appellant of its liberty and property without due process of law.

(3.) The aforesaid statute of the State of Oklahoma is unconstitutional and repugnant to Section 1 of the Fourteenth Amendment of the Constitution of the United States in that it deprives the appellant of the equal protection of the laws.

(4.) The aforesaid statute of the State of Oklahoma is unconstitutional and repugnant to Section 5219, Revised [fol. 95] Statutes of the United States.

(5.) The said statute of the State of Oklahoma is unconstitutional and repugnant in that it was enacted for the express and specific purpose of taxing income from tax-exempt obligations of the United States, as the predecessor statute, being enacted in 1933, is exactly similar to the 1935 Act except that the 1933 Act exempted such income of obligations of the United States from taxation, while the 1935 Act had as its only change the inclusion of such income as being taxable.

(6.) The said statutes of 1935, by virtue of which the State Tax Commission assessed 6% taxes against the income from instrumentalities of the United States Government, is discriminatory as against national banks because the statute specifically provides that the taxes on Federal instrumentalities can be levied only against banks and not other corporations or individuals. Other corporations owning Government bonds under the statutes are allowed to deduct from their gross income all income derived from the interest on obligations of the United States and its possessions, or on securities issued under authority of an Act of Congress, the interest from said securities being specifically nontaxable; but Sections 8 (8), (c) and 18 (b) of said legislative enactment specifically provides that this bank and all banks in Oklahoma are denied this exemption and are compelled to pay a tax upon the following:

"Interest upon the obligations of the United States, or its possessions, or upon securities issued under the authority of an Act of Congress, the income from which is tax free."

(7.) As a result of the Oklahoma Statutes of 1935 cited supra, this bank and all other banks are compelled to pay taxes over and above and in addition to the tax imposed on [fol. 96] any and all other individuals or corporations in this State, including individuals or corporations engaged in competition with said bank, such as building and loan associations, partnerships and persons who are engaged in the business of loaning money and in addition to it being illegal by virtue of Section 8 of Article I of the Fourteenth Amendment of the Constitution of the United States, it is contrary to Section 5219 of the Revised Statutes of the United States, and in addition to this, it is violative of sections 7 and 15 of Article II, and section 5 of Article X of the Constitution of Oklahoma, and section 12370, Oklahoma Statutes 1931.

(8.) The Supreme Court of the State of Oklahoma in the companion case known as the First National Bank of El Reno v. Oklahoma Tax Commission reported in 90 Pac. (2d) 438, specifically holds that the tax undertaken to be levied by the State of Oklahoma in 1935 is not an income tax as stated in said Act, but is an excise tax, or privilege tax, and, therefore, is a legal tax and the holding of this Court is in direct violation of another statute enacted and enforced in the State of Oklahoma under the heading "Oklahoma Corporation License Law", which section lists the character of business in the State of Oklahoma which is subject to an excise tax and in the second paragraph of said Act is this provision:

"Provided, however, that this act shall not apply to national banks, state banks, trust companies, building and loan associations, insurance companies, including surety and bond companies, nor any corporation not organized for profit."

If the State of Oklahoma Supreme Court is correct in holding that the tax attempted to be levied by the State is an excise tax, then said decision is violative of the statutes of [fol. 97] Oklahoma in effect at the time of said decision, and in holding that the tax can be levied against the income from Federal securities it deprives this appellant of a right to

which he is entitled by virtue of the contract in the face of the bonds involved in this decision.

E. A. Walker, Attorneys for Appellant. V. J. Bodovitz, of Counsel.

C. D. Stinchecum, Attorney of Record for the appellee, hereby acknowledges due and timely service of the above Statement of Points to be Relied Upon, and designation of the parts of the record to be printed, and agrees that the said designation includes all parts of the record material and necessary to the consideration of the case and hereby expressly waives all right to file a counter designation of parts of the record to be printed.

Dated this 29th day of November, 1939.

C. D. Stinchecum.

[fol. 98] In Supreme Court of the United States

Designation of Parts of Record to be Printed—Filed December 16, 1939

Comes now the appellant in the above entitled cause and hereby makes its designation of parts of the record to be printed, as follows:

(1.) Petition filed in the District Court of Oklahoma County, State of Oklahoma, in Cause No. 93,837, entitled Tradesmens National Bank of Oklahoma City, a banking corporation, Plaintiff, vs. The Oklahoma Tax Commission, Defendant.

(2.) Answer filed by the defendant The Oklahoma Tax Commission in said District Court of Oklahoma County.

(3.) Stipulation of parties filed in said cause in said District Court.

(4.) Journal Entry of Judgment of said District Court of Oklahoma County.

(5.) Petition in Error filed in the Supreme Court of the State of Oklahoma, being Cause No. 29,155.

(6.) Opinion of the Supreme Court of Oklahoma in Cause No. 29,155.

(7.) Petition for Rehearing.

(8.) Journal Entry of Judgment denying Petition for Rehearing.

(9.) Motion for Stay of Mandate to Permit Taking Allowance of Appeal to the Supreme Court of the United States, with acknowledgment of service thereof.

(10.) Journal Entry of Order Staying Mandate and Fixing Costs Bond.

(11.) Petition for Appeal and Prayer for Reversal, with proof of service thereof.

[fol. 99] (12.) Assignment of Errors, with acknowledgment of service thereof.

(13.) Jurisdictional Statement, together with excerpts of the Oklahoma Income Tax Laws of 1933 and 1935 attached thereto.

(14.) Order Allowing Appeal, with acknowledgment of service.

(15.) Citation to Appellee, with proof of service thereof.

(16.) Costs Bond with approval thereof and acknowledgment of service.

(17.) Statement directing attention of appellees to Paragraph 3 of Rule 12 of the Supreme Court of the United States, with acknowledgment of service thereof.

(18.) Praecipe for Transcript of Record, with acknowledgment of service thereof.

(19.) Statement of Points to be Relied Upon, with acknowledgment of service and waiver.

(20.) Designation of Parts of Record to be Printed, with acknowledgment of service and waiver.

E. A. Walker, Attorneys for Appellant. V. J. Bodovitz, of Counsel.

A. F. Herr, Attorney of Record for the appellee, hereby acknowledges due and timely service of the above Designation of Parts of Record to be Printed, and agrees that said designation includes all the parts of the record material and necessary to the consideration of the case and hereby ex-

pressly waives all right to file a counter designation of parts of the record to be printed.

Dated this 13 day of December, 1939.

A. F. Herr.

[fol. 100] [File endorsement omitted]

Endorsed on Cover: File No. 44,003. Oklahoma, Supreme Court, Term No. 596. Tradesmens National Bank of Oklahoma City, Appellant, vs. The Oklahoma Tax Commission. Filed December 16, 1939. Term No. 596 O. T. 1939.